

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

SHAWNA MICHAEL DONALDSON, also known as Shawn Michael Donaldson,

Plaintiff,

v.

GARRETT LANEY, Superintendent, Oregon State Correctional Institution (OSCI), JON HYDE, Captain, OSCI, THOMAS, (FNU) OSCI Behavioral Health Services (BHS) Counselor, KRISTINE GATES, BHS Manager, JOHN AND JANE DOES 1-20, ODOC/OSCI/OSP employees whose identities are presently unknown, CURTIS WAGNER, GERALD LONG, RICHARD WALLACE, STEVEN BOSTON, CHRISTINE POPOFF, JAN HAGA, RUBEN BENAVIDEZ, YVONNE WILLIAMS, STEPHEN HARNDEN, DEBORAH SINGLETON, STATE OF OREGON, GREGORY ROSS, and JOHN E. GARFIELD,

Defendants.

Case No. 6:21-cv-1625-AR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jeffrey Armistead issued Findings and Recommendation in this case on January 19, 2024. Judge Armistead recommended that this Court deny Plaintiff's Motion for Default Judgment against Defendant Ruben Benavidez. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's findings and recommendations, "the court

shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Armistead’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Armistead’s Findings and Recommendation (ECF 64). The Court DENIES Plaintiff’s Motion for Default Judgment (ECF 54) with leave to renew.

IT IS SO ORDERED.

DATED this 16th day of February, 2024.

/s/ *Michael H. Simon*
Michael H. Simon
United States District Judge